IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2007

CORAM:

THE HON'BLE MR.JUSTICE M. CHOCKALINGAM

W.P.NOS.19861 TO 19863 OF 2007

AND

M.P.NOS.1 +1 + 1 OF 2007

Jayachandran ...Petr., in W.P.No.19861/2007
Vijaya Raj ...Petr., in W.P.No.19862/2007
R.Pooranasamy ...Petr., in W.P.No.19863/2007

Vs.

1.The Chairman & Managing Director,
Tamil Nadu Sugar Corporation,
690, Anna Salai,
Nandanam,
Chennai 35.

2. The Chief Executive,
Perambalur Sugar Mills Ltd.,
Eraiyur,
Perambalur District. ...Respondents 1 & 2 in all W.Ps.

The Chief Executive,
Arignar Anna Sugar Mills,
Kurunkulam,
Thanjavur District. ...3rd Respdt. in W.P.No.19861 of 2007

The Chief Executive,
Kallakurichi Cooperative Sugar Mills ltd.,
Moongilthuraipattu,
Villupuram District. ...3rd Respdt. in W.P.No.19863 of 2007

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Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Na.Ka.No.85/2005/E3 dated 06.02.2007, 21.2.2007 and 6.2.2007 respectively and to quash the same as illegal and direct the respondents to repay the money already recovered from the petitioner.

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For Petitioners: Mr.S.Muthukrishnan
For Respondents: Mrs.G.Thilagavathi

O R D E R

This order shall govern these three writ petitions.

2. Petitioners in these writ petitions are Technical Assistants in the Perambalur Sugar Mills Ltd., and they were subsequently transferred to various other Sugar Mills and the impugned order has been served upon them for recovery of Rs.2000/- by way of monthly instalment.

3. After perusing the affidavit filed in support of the petition and also the counter affidavit, it could be seen that water has to be taken for the Perambalur Sugar factory from the Vellar river through underground pipeline. There was an agreement between the Public Works Department of Tamil Nadu Government and the Perambalur Sugar factory regarding the payment of water charges. The water charges were paid by the factory as per the meter reading, in any event, annually on the basis of the consumption of water for each quarter. The petitioners who are Technical Assistants (Civil) have to look after the regular flow of water from the pump house to the factory and maintained the pipeline, in fact for the free flow of water. The petitioner received a letter from the second respondent through the third respondent stating that from 1.12.1993 to 3.9.1994, the water from Vellar River was taken without functioning of the meter. So, the penalty of Rs.6.86 lakhs was impoed. The A.G.Audit submitted a Audit report to collect a sum of Rs.6.86 lakhs from 7 persons and each of the petitioner has to pay Rs.98,000/- and the same will be deducted from their monthly salary by way of monthly instalment of Rs.2,000/-. Under such circumstances, the above writ petitions have been brought forth for the relief extracted above.

4. Contrary to the above, learned counsel for the respondent would submit that after coming to know about the non-functioning of the meter, penalty was imposed, a committee was constituted and proper notice was served upon the persons concerned. They also participated in the enquiry and the enquiry report was also given whereby the penalty was fixed at Rs.6,86,000/- and seven persons are liable and they have to pay equally Rs.99,000/-. The amounts from salary which was deducted to some extent and at that juncture, the petitioners have made a representation before the respondents that they are seeking for exemption and when they sought for exemption, the Government also negatived stating that once it was discussed before the legislative Assembly, there is no question of exemption from paying the remaining amount would be arien. Under the circumstances, the Department proceeded to recover the said sum at Rs.2,000/-, out of the monthly salary of the petitioners herein. Under such circumstances, the writ petition has to be dismissed.

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5. The Court paid its anxious consideration on the submissions made. It is not in controvesy that the water was taken from Vellar river and supplied to the Perambalur Sugar Factory through the undergound pipeline and the payments were made as per the meter reading. According to the department, the meter was not functioning from 1.12.1993 to 3.9.1994 and it was calculated and penalty was imposed at Rs.6.86 lakhs. It is not in controversy that the committee was constituted and enquiry was made in which the petitioners were also participated and the committee has also filed a report stating that seven persons are responsible for the same. At this juncture, it is to be pointed out that despite the committee's report that these seven persons were responsible, the impugned order is now challenged, which has become final. It is also not in controversy that initially amounts were recovered from the monthly salary of the petitioners and apart from that when these petitioners made a representation to the Department stating that they sought for an exemption from the State and also applied for the same, but the exemption was not granted by the State. Under such circumstances, the liability of the petitioners was fastened on the petitioner by dividing the amount into Rs.98,000/- each. At this juncture, the impugned communication was received by them in which it was informed that a sum of Rs.2,000/- was deducted from their salary. Now, it is brought to the notice of the Court by the learned counsel for the petitioners that if the salary of Rs.2,000/- is being deducted every month from the petitioners , it would cause prejudice to them. Hence Considering the facts and circumstances of the case, this Court is of the considered opinion that the writ petitions can be disposed of with liberty to the petitioners to make a representation to the authority concerned within a period of four weeks here from and the authority shall also consider the representation within a period of eight weeks there from and accordingly it is ordered. In so far as the quantum of the deduction to be made every month out of their salary, this Court cannot interfere with the same in this writ petition.

6. With the above observation, the writ petitions are disposed of. No costs. Consequently M.P.Nos.1,1,1 of 2007 are closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Chairman & Managing Director,
Tamil Nadu Sugar Corporation,
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2. The Chief Executive,
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Eraiyur,
Perambalur District.

3. The Chief Executive,
Arignar Anna Sugar Mills,
Kurunkulam, Thanjavur District.

4. The Chief Executive,
Kallakurichi Cooperative Sugar Mills ltd.,
Moongilthuraipattu, Villupuram District.

1 cc To Mr.S.Muthukrishnan, Advocate, SR.55009.
1 cc To Mr.G.Thilagavathi, Advocate, SR.54886.

W.P.NOS.19861 TO 19863 OF 2007
AND
M.P.NOS.1,1 AND 1 OF 2007

VC(CO)
RVL 25.09.2007

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